



MITCHELL E. DANIELS, JR., *Governor*

JAMAL L. SMITH, *Executive Director*

ICRC No.: EMha1107039

[REDACTED],  
Complainant,

vs.

SAMLIND OF INDIANA,  
Respondent.

### **NOTICE OF FINDING**

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice has occurred. 910 IAC 1-3-2(b)

On July 5, 2011, [REDACTED] ("Complainant") filed a complaint with the Commission against Samlind of Indiana ("Respondent") alleging discrimination on the basis of race, religion, and disability, in violation of the Indiana Civil Rights Law (IC 22-9, et seq), [REDACTED]

[REDACTED]. Accordingly, the Commission has jurisdiction over the parties and the subject matter of this complaint.

An investigation has been completed. Both parties have had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

One issue presented to the Commission is whether Complainant was denied an accommodation for her disability and terminated. In order to prevail, Complainant must show that: (1) she has an impairment that substantially limits a major life activity; (2) she required an accommodation for this disability, (3) Respondent knew of should have known of Complainant's need for a reasonable accommodation and (4) Respondent refused to consider Complainant's needs and denied the accommodation without a showing of undue hardship.

It will be presumed for purposes of this analysis that Complainant did have a disability as that term is defined by the Indiana Civil Rights Law, or that Respondent perceived Complainant as having such impairment. The evidence indicates that Respondent had knowledge with respect to Complainant's medical condition and limitations due to documentation from Complainant's physician. Respondent asserted that Complainant provided additional medical documentation that did not indicate any work restrictions; however, Respondent failed to produce such documentary evidence to investigator for consideration. The evidence indicates Complainant could perform the essential functions of the job with an accommodation—no lifting over 15 pounds.

Respondent was advised of Complainant's medical restrictions provided by her physician and it is also clear that Respondent failed to consider granting Complainant another assignment with a



lighter duty, or to provide assistance with her lifting restriction as an accommodation for her disability.

Respondent has a Return to Work after Serious Injury or Illness Policy, which states that management shall ensure that employees who return to work after a serious injury or illness are physically capable of performing their duties or assignment without risk of re-injury or relapse. If the cause of the employee's illness or injury was job-related, the employee's supervisor/manager will make every reasonable effort to assign the returning employee to assignments consistent with the instructions of the employee's doctor until the employee is fully recovered. The available evidence suggests that Respondent did not adhere to its own policy with regard to Complainant. Based upon the above findings, probable cause exists to believe that an unlawful discriminatory practice may have occurred.

Complainant further asserts that Respondent discriminated against her based on her sex and refused to accommodate her sincerely held religious belief by not allowing her to take Sundays off to attend church. The evidence fails to substantiate these claims.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. IC 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission within twenty (20) days of receipt of this Notice, or the Commission's Administrative Law Judge will hear this matter. IC 22-9-1-16, 910 IAC 1-3-6.

March 15, 2012  
Date

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Joshua S. Brewster, Esq.  
Deputy Director  
Indiana Civil Rights Commission